

CALIFORNIA ACUPUNCTURE BOARD

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State of California
Department of Consumer Affairs
Arnold Schwarzenegger, Governor



Approved February 23, 2007
ACUPUNCTURE BOARD
MEETING MINUTES

Department of Consumer Affairs – Hearing Room
Sacramento, CA

Full Board Meeting
NOVEMBER 3, 2006

Members Present

Steven Tan, M.D. Chair
Kenny Cherng, L.Ac., Vice Chair
Adam Burke, L.Ac.
Peichin Cheng
Cary Nosler
Larry Yee

Staff Present

Janelle Wedge, Executive Officer
LaVonne Powell, Legal Counsel
Mary Howard, Administrative Coordinator
Nancy Molinar, Education Coordinator
Christie Loftin, Examination Coordinator
Robin Saenz, Enforcement Coordinator

Guest List on File

- 1. Call to Order and Establishment of a Quorum**
Board Chair Steven Tan called the Acupuncture Board (board) meeting to order at approximately 10:17a.m. Roll was taken and a quorum was established.
- 2. Chair Report**
Board Chair Steven Tan introduced new member Robert Brewer and welcomed back Larry Yee; he also explained that the reports of the committees would be a summation, not a reiteration and comments would be limited to two minutes.
- 3. Executive Officer's Report**
Executive Officer Janelle Wedge welcomed new member Robert Brewer and indicated that the board is now at full capacity; Ms. Wedge reported that Mary Howard has returned to the board after a nine year absence, to fill the administrative coordinator position; we are in the process of filling the administrative technician position; the 2007 dates for new board member orientation are January 23 (Sacramento), March 14 (San Diego), and September 19 (Oakland) and that all members must attend a new board member orientation within one year of their appointment; and Sherry Mehl, DCA's former chief deputy director and the board's former executive officer, was recently appointed as chief of the Bureau of Automotive Repair. Ms. Wedge also reported on the iLicensing project that the department is working on that will allow licensees to renew online and that she would keep the board updated as the project moves along.

4. Approval of August 25, 2006 Meeting Minutes

The minutes of August 25, 2006 were reviewed and approved.

LARRY YEE MOVED AND CARY NOSLER SECONDED A MOTION TO APPROVE THE MINUTES OF AUGUST 25, 2006. MOTION PASSED UNANIMOUSLY.

5. Administrative Business – (Discussion/Action)

a. Budget Report

Ms. Wedge provided a report on the board's expenditures for the period July through September 2006.

b. Update on Letter to Licensees Regarding Increase in CE Hours

The board was presented the letter dated October 16, 2006 that was sent to all licensees regarding the increase in continuing education (CE) hours that took effect January 1, 2006 as a result of AB 1114 (Yee, Chapter 648, Statutes of 2005). The letter also informed licensees that the bill also limited the number of CE hours a licensee can accumulate that are unrelated to clinical matters or the actual provision of health care to patients to no more than five hours. Discussion followed regarding the five-hour limitation and whether it is fair or adequate.

c. Proposed Language on Regulatory Amendments to Title 16, California Code of Regulations, Sections 1399.480, 1399.481, 1399.482, 1399.483, 1399.484, 1399.485, 1399.486, 1399.487, 1399.488, 1399.489, and 1399.489.1

The board was presented draft language on the new set of proposed continuing education regulations. These regulations are similar to those that were introduced last year but were not approved by the Office of Administrative Law. (The disapproval was based in part on the fact that subsequent to the regulatory package being introduced, the law changed increasing the required number of continuing education hours to be completed every two years, causing inconsistency with the proposed regulations.) There was discussion on clarifying and modifying the definition of level one and level two categories.

CARY NOSLER MOVED AND LARRY YEE SECONDED A MOTION TO ACCEPT THE DRAFT REGULATORY LANGUAGE FOR CONTINUING EDUCATION WITH CLARIFICATION/DEFINITION OF THE TWO CATEGORIES. MOTION PASSED UNANIMOUSLY.

d. Legislation

Ms. Wedge reported on the status of the following legislative bills:

- 1. AB 2287 (Chu) – Workers Compensation** – Vetoed by Governor on 9/30/06
- 2. AB 2927 (Leno) – Public Records** - Vetoed by Governor on 9/30/06
- 3. AB 3014 (Koretz) – Asian Massage** - Vetoed by Governor on 9/30/06; Neal Miller reported that his understanding of the veto is that the bill was not clear enough and that it may create the potential for insurance fraud. Mr. Miller requested the board to find out what the Governor is concerned with and address them; Sandra Cary of CAOMA stated they were opposed to AB 3014.
- 4. SB 1476 (Figueroa) – Extending Sunset Date** – Signed by Governor – Chapter 658.

6. Education Business

a. Committee Report

1. **Approving Out-of-State Training Programs** – Adam Burke reported that the Education Committee passed a motion to discontinue approving out-of-state schools and to approve students on a case-by-case basis and to move forward with seeking a legislative change. Proposed language will be brought to the board at the next board meeting.

ADAM BURKE MOVED AND LARRY YEE SECONDED A MOTION TO ACCEPT THE EDUCATION COMMITTEE'S RECOMMENDATION AND HAVE THE COMMITTEE DEVELOP PROPOSED LEGISLATIVE LANGUAGE REGARDING THE APPROVAL OF OUT-OF-STATE SCHOOLS AND REPORT BACK TO THE BOARD. MOTION PASSED UNANIMOUSLY.

2. **Remove Limitation on External Clinic Instruction** – Adam Burke reported that the Education Committee passed a motion to approve the concept of modifying CCR Section 1399.436(b) to allow students to complete up to 50% of their clinical instructions in a clinic that is not owned and operated by an approved school.

ADAM BURKE MOVED AND LARRY YEE SECONDED A MOTION TO ACCEPT THE EDUCATION COMMITTEE'S RECOMMENDATION AND HAVE THE COMMITTEE DEVELOP PROPOSED REGULATORY LANGUAGE AND REPORT BACK TO THE BOARD. MOTION PASSED UNANIMOUSLY.

3. **Recognition of BPPVE Approved Doctorate Programs** – Adam Burke reported that the Education Committee passed a motion to defer the issue of the board recognizing BBPVE approved doctorate programs to the strategic planning process.

ADAM BURKE MOVED AND LARRY YEE SECONDED A MOTION TO ACCEPT THE EDUCATION COMMITTEE'S RECOMMENDATION AND DEFER THE ISSUE OF DOCTORATE PROGRAMS TO THE STRATEGIC PLANNING PROCESS. MOTION PASSED UNANIMOUSLY.

- b. Non-integrated Acupuncture & Herb Programs – Deneb Falabella, Tai Sophia**
Deneb Falabella and David Paton from Tai Sophia Institute in Maryland addressed the board about their acupuncture and herbal programs. There is an issue that the two separate and distinct programs – a Master of Acupuncture Program and a Certificate Program in Chinese Herbs – do not meet the board's curriculum requirements; that to meet the requirements the herb training has to be an integrated part of the core curriculum. There was extensive discussion with the board and public. It was decided that the issue needs to be referred back to the Education Committee for further review.

ROBERT BREWER MOVED AND LARRY YEE SECONDED A MOTION TO REFER THE ISSUE OF NON-INTEGRATED HERB PROGRAMS TO THE EDUCATION COMMITTEE FOR FURTHER

REVIEW AND DISCUSSION. MOTION PASSED UNANIMOUSLY.

c. Status of School Site Visits

Nancy Molinar reported that the board received an application from Nobel University and that the curriculum needs to be reviewed before a site visit can be scheduled. Ms. Molinar also reported that a site visit to Alhambra Medical University (AMU) was pending the commencement of their clinical operation. Representatives from AMU addressed the board and indicated that they are ready for the board to conduct a site visit.

7. Examination Business – (Discussion/Action)

a. Committee Report

1. Out-of-State Students Qualifying for Licensing Examination

Steven Tan reported that the Examination Subcommittee discussed the issue of out-of-state students qualifying for the CALE and that this item is similar to the Education Committee's discussion on the approval of out-of-state training programs and that both issues need to be deferred to the board's strategic planning process. Discussion and clarification followed.

2. Limitation on Retaking Examination Without Additional Schooling

Steven Tan reported that the issue of putting a limitation on the number of times a candidate can take the CALE was deferred to the board's strategic planning process.

STEVEN TAN MOVED AND LARRY YEE SECONDED A MOTION TO ACCEPT THE EXAMINATION COMMITTEE'S REPORT AND RECOMMENDATIONS. MOTION PASSED UNANIMOUSLY.

b. August 29, 2006 Licensing Examination Statistics

Examination Coordinator Christie Loftin reported on the results of the August 29, 2006 licensing examination: of the 587 candidates that took the exam, 334 (57%) passed. The passing rate breakdown for each language was English – 178 (56%), Chinese – 67 (56%), and Korean – 89 (60%).

There was discussion regarding the board providing additional statistical information relative to the curriculum areas and by school. The board indicated that this may not be feasible but will work on getting a breakdown in general of the weak curriculum areas.

8. Enforcement Business – (Discussion/Action)

a. Committee Report

1. Use of professional titles: OMD, DOM, DAOM, etc.

Kenny Cherng reported that the Enforcement Committee discussed the issuance and usage of professional titles such as OMD, DOM, DAOM, etc and that the issue has been deferred to the board's strategic planning process.

b. Enforcement Case Report

Executive Officer Janelle Wedge provided an enforcement update as follows: the board has received **38 new complaints since July 1, 2006**; 22 complaints were for unprofessional conduct. This is very comparable to the number and types of complaints that were received during the same time period in 2005. As of September 30, 2006 there were: 79 new and prior complaint cases pending in-house; 22 formal investigations pending with D of I; 22 open disciplinary cases pending; and 22 open probation cases. There was discussion as to the types of cases that fall under unprofessional misconduct,

whether this includes any sexual misconduct. Legal Counsel LaVonne Powell indicated that cases where a place of prostitution was found to have used an acupuncturist's license would fall under unprofessional conduct, but that sexual misconduct is the actual sexual misconduct between and licensee and patient. There was public discussion as to whether statistics could be provided that would identify complaint cases by licensee population, i.e. language, ethnicity, etc. It was reported that this is would not be done. Ms Wedge indicated that the report of disciplinary cases does identify the area of the state where the misconduct occurred.

c. Probation Monitoring

Executive Officer Janelle Wedge reported that the Division of Investigation will no longer be monitoring the board's probation cases as of January 1, 2007 and that the board may want to consider hiring a retired annuitant with experience to perform this function. Other boards are going this route. She further indicated that we would no longer be paying Doff for this service and that a retired annuitant would be less expensive. The board is in agreement of hiring a retired annuitant.

d. Use of Lasers (Cold and Hot) – Neal Miller

Neal Miller addressed the board and inquired as to the legality of acupuncturists or other professions/individuals using light (lasers) for different treatments. Discussion followed. Legal Counsel LaVonne Powell indicated that a standard needs to be developed with appropriate training of usage. Ms. Powell said that further research is needed and brought back to the board for discussion. Ms. Wedge will check with Department of Health Services as to whether cold or hot laser is a new device and what the limitations on use are and will report findings at next meeting.

9. Set 2007 Acupuncture Board Meeting Dates and Location

The board reviewed the calendar for 2007 and selected the following dates and locations for board meetings in 2007:

February 23, 2007 (Los Angeles)	May 18, 2007 (San Francisco)
August 10, 2007 (San Diego)	November 2, 2007 (Sacramento)

10. Schedule Strategic Planning Session

The board agreed to hold the Strategic Planning session in Sacramento on February 2, 2007. Board staff will secure a location.

11. Public Comment Period

No public comment

12. CLOSED SESSION: Pursuant to Government Code Section 11126(c) (1) and (c) (3) to discuss/take action on examination administration and disciplinary actions.

13. Adjournment

The meeting adjourned at approximately 4:15 p.m.